HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 399 of 2003 (M/S)

Khushal Mani

Versus.

Collector, Uttarkashi & others

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 2.8.2004.

Initial of Judge

IN HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 399 of 2003 (M/S)

Khushal Mani,
S/o Shri Natthi Ram,
R/o Maneri Bhali, Nirman Khand II,
Shaktipuram, Irrigation Department,
Chiniyali Saud
Uttar Kashi & another. … Petitioners

Versus

Collector, Uttarkashi & others … Respondents

Mr. Gopal Narain, learned Advocate for the petitioners.
Learned Standing Counsel for the State.

Dated: 02.8.2004

Hon'ble Rajesh Tandon J.

By the present writ petition, the petitioners have prayed for a writ of mandamus directing the respondent No. 1 to pay the amount in pursuance of the recovery certificate dated 26.08.2002 issued by the respondent No.2.

Brief facts giving rise to the present writ petition are that the petitioners are the workmen, who were employed as daily wager. Petitioners have raised an industrial dispute and claimed permanent status with all benefits. The dispute was referred to the Labour Court. The Labour Court, after hearing the parties, passed an order regularizing the petitioners and other workmen with all benefits of permanent employee w.e.f. 1st October, 1988. An award to that effect was passed on 28.03.1995. The said award was challenged by the respondent No. 3 before the Allahabad High Court in writ petition No. 12331 of 1996. On 13th February, 1998, the said writ petition was dismissed and the award was confirmed.

Thereafter, respondent No. 3 approached the Hon'ble Supreme Court and has challenged the award dated 28.03.1995 as well as the judgment dated 13.02.1998 passed by the Allahabad High Court in Civil Appeal No. 6377 of 1999. After hearing the learned counsel for the parties, the Apex Court dismissed the SLP on 29th October, 1999 and confirmed the award dated 28.3.1995.

The grievance of the petitioners is that after confirmation of the award dated 28.3.1995 by the Hon'ble Apex Court, when the respondent No. 3 did not comply the same, the petitioners filed an application under Section 6 H (1) of the U.P. Industrial Disputes Act for implementation of the award. Thereafter, an application under Section 33C(2) of the Industrial Disputes Act was filed by the petitioner before the Labour Court, which was allowed on 30.8.2001.

Further, the petitioner approached the respondent No. 2 i.e. Assistant Labour Commissioner, Garhwal Region, Dehradun for implementation of the order dated 30.8.2001 passed by the Labour Court, Dehradun and the respondent No. 2 issued a recovery certificate amounting to Rs. 1,38,520/- to the respondent No. 1 i.e. The Collector, Uttarkashi and the Tehsildar of Teshil by order dated 26.8.2002. But till today the compliance of the order of the Hon'ble Apex Court has not been made. Even which the recovery certificate was issued, the same remained unrecovered.

Mr. Gopal Narain, learned counsel for the petitioners has submitted that the workmen are not getting the arrears of wages according to the recovery certificate issued by respondent No. 1, which is violative of Article 21 of the Constitution of India.

After considering the entire facts and circumstances, in my opinion, the award having been confirmed by the Hon'ble Apex Court and the leave petition was dismissed and the recovery certificate for payment of arrears of wages having been issued, there is no rhyme or reason not to pay the amount to the petitioners. It is well known Latin

Maxim as held in 1994 (2) ARC 79 in the case of Ashtosh Shrotriya Vs Rais Uddin that it is the duty of a good Judge to see that the judgment is executed without delay and further to put an end to litigation so that the suit may not grow.

There is another maxim *"Boni judicis est judicium sine dilatcone mendare executiori"* which connotes that it is the duty of a good Judge to cause judgment to be executed without delay. There is yet another maxim *"Boni judicis est ampliare jurisdictionem"* which connotes that a good Judge will, if necessary, extend the limits of his jurisdiction to the advancement of substantial justice. There is also a maxim *"Boni judicis est lites dirimere ne lis exlite evitus et interest reipublicae ut sint finess litium",* which connotes that it is the duty of a good Judge to put an end to litigation so that suit may not grow out of suit.

In view of the aforesaid facts and circumstances, the writ petition is allowed. A writ of mandamus is issued directing the respondents to pay the wages to the petitioner in pursuance of the recovery certificate dated 26.8.2002 within a period of six weeks from today. No order as to costs.

(Rajesh Tandon J.)

Dt. 2.8.2004
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